MARITIME TRANSPORT

1. DEFINITIONS

Sub-section 6 of the EU-Japan EPA sets out the principles for regulatory framework for provision of international maritime transport services.

International maritime transport services are defined in the EU-Japan EPA as transport of passengers or cargo by sea-going vessels between ports of Japan and the European Union member nations, or a third country, and includes the direct contracting with suppliers of other transport services, with a view to covering door-to-door or multimodal transport operations under a single transport document, but does not include the right to supply such other transport services.

Maritime auxiliary services are defined in the EU-Japan EPA as cargo-handling services, storage and warehousing services, customs clearance services, container station and depot services, maritime agency services and freight forwarding services.
2. COVERAGE OF OBLIGATIONS

EPA Art. 8.69 provides for a set of obligations without prejudice to non-conforming measures or other measures referred to in Articles 8.12 and 8.18.

2.1. WHAT OBLIGATIONS ARE COVERED

- **EPA Art. 8.69(a):** Provides that Japan and the EU shall respect the principle of unrestricted access to international maritime markets and trades on a commercial and non-discriminatory basis.

- **EPA Art. 8.69(b):** Ships flying either Japanese or EU-member-nation flags or operated by Japanese or EU members service suppliers receive equal treatment concerning:
  - Access to ports
  - Use of infrastructure and services of ports
  - Related fees and charges
  - Customs facilities
  - Assignment of berths and facilities for loading and unloading
  - Use of maritime auxiliary services (cargo-handling services, storage and warehousing services, customs clearing services, container station and depot services, maritime agency services and freight forwarding services)

EPA Art. 8.69 provides that in applying the principles set out in **Art. 8.69(a)(b),** each Party shall not adopt or maintain cargo-sharing arrangements in any agreement concerning international maritime transport services. Each Party shall terminate any such arrangement in any agreement in force or signed prior to the date of entry into force of the EPA, upon the entry into force of the EPA.

- **EPA Art. 8.69(c):** Allows EU international maritime transport service suppliers to establish and operate an enterprise in Japan under equal treatment granted to domestic maritime service suppliers (and vice-versa).

- **EPA Art. 8.69(d):** Provides for a range of maritime services at the port to be made available on a reasonable and non-discriminatory basis. This includes:
  - Pilotage
  - Towing and tug assistance
  - Provisioning, fueling and watering
  - Navigation aids
  - Garbage collecting and ballast Waste Disposal
  - Port Captain’s Services
  - Emergency repair facilities
  - Shore-based operational services
  - Anchorage
  - Berth and berthing services.

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3. EPA 8.68(2)(A) DEFINITION: CONTAINER STATION AND DEPOT SERVICES

Activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing or stripping, repairing and making them available for shipments.

4. EPA 8.68(2)(B) DEFINITION: CUSTOMS CLEARANCE SERVICES

Activities consisting in carrying out on behalf of another party's customs formalities concerning import, export or through transport of cargoes, irrespective of whether this service is the main activity of the service supplier or a usual complement of its main activity.
5. EPA 8.68(2)(C) DEFINITION: DOOR-TO-DOOR OR MULTIMODAL TRANSPORT OPERATIONS

The transport of cargo using more than one mode of transport, involving an international sea-leg, under a single transport document.

6. EPA 8.68(2)(D) DEFINITION: FREIGHT FORWARDING SERVICES

Activities consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.
7. EPA 8.68(2)(F) DEFINITION: MARITIME AGENCY SERVICES

Activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

- Marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of landing on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information.
- Acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

8. EPA 8.68(2)(H) DEFINITION: MARITIME CARGO HANDLING SERVICES

Activities exercised by stevedore companies, including terminal operators but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

- Loading or discharging of cargo to or from a ship
- Lashing or unlashing of cargo
- Reception or delivery and safekeeping of cargoes before shipment or after discharge.

9. EPA 8.68(2)(I) DEFINITION: STORAGE AND WAREHOUSING SERVICES

Storage services of frozen or refrigerated goods, bulk storage services of liquids or gases, and storage and warehousing services of other goods including cotton, grain, wool, tobacco, other farm products and household other goods.
10. CHALLENGES

While the EU-Japan EPA offers EU businesses and professionals more opportunities to participate in Japan’s market landscape, EU businesses and professionals should take into consideration that other factors, such as cultural, linguistic, and regulatory barriers will need to be addressed in order to take full advantage of the EU-Japan EPA. Those businesses and professionals should therefore still expect regulatory oversight.

Japanese business and professionals operating in or accessing the EU market should likewise also expect regulatory oversight, including licensing requirements related to both national-level and European Union legislation.

MORE INFORMATION

EU-Japan EPA’s main text and annexes can be found on European Commission’s DG Trade website: http://trade.ec.europa.eu/doclib/press/index.cfm?id=1684


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DISCLAIMER

The Report has been prepared with the sole purpose of clarifying and simplifying the understanding of some parts of the EU-Japan EPA related to international maritime transport services, and bear therefore no legal standing. While utmost care was taken in the preparation of the report, the author, the EU-Japan Centre, and the European Commission cannot be held responsible for any error or omission. This report does not constitute legal advice in terms of business development cases. As a result, only the legal text and annexes of the EU-Japan EPA, as well as relevant legislation in the EU and Japan prevail. The Report reflects the view of the author who cannot be held responsible for any use which may be made of the information contained herein.